

SUBCHAPTER F—SPECIAL CATEGORIES OF CONTRACTING

PART 1834—MAJOR SYSTEM ACQUISITION

Subpart 1834.0—General

Sec.

1834.003 Responsibilities.

AUTHORITY: 42 U.S.C. 2473(c)(1).

SOURCE: 62 FR 4467, Jan. 30, 1997, unless otherwise noted.

Subpart 1834.0—General

1834.003 Responsibilities.

(a) NASA's implementation of OMB Circular No. A-109, Major System Acquisition, and FAR Part 34 is contained in this part and in NASA Policy Directive (NPD) 7120.4, "Program/Project Management," and NASA Procedures and Guidelines (NPG) 7120.5, "NASA Program and Project Management Processes and Requirements".

[65 FR 58932, Oct. 3, 2000]

PART 1835—RESEARCH AND DEVELOPMENT CONTRACTING

Sec.

1835.003 Policy.

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1835.070 NASA contract clauses and solicitation provision.

AUTHORITY: 42 U.S.C. 2473(c)(1).

SOURCE: 62 FR 4469, Jan. 30, 1997, unless otherwise noted.

1835.003 Policy.

See NPG 5800.1, Grant and Cooperative Agreement Handbook, for policy regarding the use of grants and cooperative agreements.

1835.015 Contracts for research with educational institutions and nonprofit organizations. (NASA supplements paragraph (a))

(a)(1)(iv) The research contract shall include a requirement that the contractor obtain the contracting officer's approval when it plans to continue the research work during a continuous period in excess of 3 months without the participation of an approved principal investigator or project leader.

1835.016 Broad agency announcements. (NASA supplements paragraphs (a) and (c))

(a)(i) The following forms of broad agency announcements (BAAs) are authorized for use:

(A) Announcements of Opportunity (see 1872).

(B) NASA Research Announcements (see 1835.016-71).

(C) Other forms of announcements approved by the Assistant Administrator for Procurement (Code HS).

(ii) Other program announcements, notices, and letters not authorized by paragraph (a)(i) of this section shall not be used to solicit proposals that may result in contracts.

(iii) Draft or final versions of any form of BAA that directly or substantially supports a program subject to NASA Procedures and Guidelines (NPG) 7120.5 shall not be released unless—

(A) All applicable NPG 7120.5 required documentation (see 1804.7301(b)(2)(i)) is current and has been approved (e.g., Formulation Authorization Document, Program Commitment Agreement, Program Plan, or Project Plan); or

(B) Authority to proceed without the required documentation has been granted by the Chair of the Governing Program Management Council or designee.

(c) BAAs may not preclude the participation of any offeror capable of satisfying the Government's needs unless a justification for other than full and

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open competition is approved under FAR 6.304.

[62 FR 4469, Jan. 30, 1997, as amended at 64 FR 14641, Mar. 26, 1999; 64 FR 48561, Sept. 7, 1999]

1835.016-70 Foreign participation under broad agency announcements (BAAs).

(a) *Policy.* (1) NASA seeks the broadest participation in response to broad agency announcements, including foreign proposals or proposals including foreign participation. NASA's policy is to conduct research with foreign entities on a cooperative, no-exchange-of-funds basis (see NPD 1360.2, Initiation and Development of International Cooperation in Space and Aeronautics Programs). NASA does not normally fund foreign research proposals or foreign research efforts that are part of U.S. research proposals. Rather, cooperative research efforts are implemented via international agreements between NASA and the sponsoring foreign agency or funding/sponsoring institution under which the parties agree to each bear the cost of discharging their respective responsibilities.

(2) In accordance with the National Space Transportation Policy, use of a non-U.S. manufactured launch vehicle is permitted only on a no-exchange-of-funds basis.

(3) NASA funding may not be used for subcontracted foreign research efforts. The direct purchase of supplies and/or services, which do not constitute research, from non-U.S. sources by U.S. award recipients is permitted.

(b) *Procedure.* When a foreign proposal or a U.S. proposal with foreign participation is received in response to a BAA, the NASA sponsoring office shall determine whether the proposal conforms to the no-exchange-of-funds policy in 1835.016-70(a).

(1) If the proposal conforms to the policy in 1835.016-70(a), the NASA sponsoring office shall evaluate the proposal and make selection in accordance with 1835.016-71(d). In conjunction with the notification of successful foreign proposers, the NASA sponsoring office shall notify the Headquarters Office of External Relations, Code I. Code I will negotiate the agreement with the spon-

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soring foreign agency or funding institution for the proposed participation.

(2) If the proposal does not conform to the policy in 1835.016-70(a), the NASA sponsoring office shall:

(i) Determine whether the proposal merits further consideration;

(ii) If further consideration is warranted, refer the proposal to Code I; and

(iii) Complete the evaluation of the proposal. However, no notification of selection, whether tentative or final, shall be made without Code I approval.

(3) Notification to Code I required by paragraphs (b)(1) and (b)(2)(ii) of this section, shall address the items contained in 1872.504(c), and shall be coordinated through the Office of Procurement, Code HS.

[64 FR 48561, Sept. 7, 1999]

1835.016-71 NASA Research Announcements.

(a) *Scope.* An NRA is used to announce research interests in support of NASA's programs, and, after peer or scientific review using factors in the NRA, select proposals for funding. Unlike an RFP containing a statement of work or specification to which offerors are to respond, an NRA provides for the submission of competitive project ideas, conceived by the offerors, in one or more program areas of interest. An NRA shall not be used when the requirement is sufficiently defined to specify an end product or service.

(b) *Issuance.* (1) Before issuance, each field-generated NRA shall be approved by the installation director or designee, with the concurrence of the procurement officer, and each Headquarters-generated NRA shall be approved by the cognizant Program Associate Administrator or designee, with the concurrence of the Headquarters Offices of General Counsel (Code GK) and Procurement (Code HS). In addition, the issuing office shall obtain input from the cognizant offices responsible for matters of safety and mission assurance, occupational health, environmental protection, information technology, export control, and security. Input shall also be obtained from the appropriate systems safety organization for NRA's that may involve potentially hazardous operations such as

those related to flight and/or mission critical ground systems. The NRA approval authority shall designate the selection official.

(2) The selecting official shall assure that the NRA is synopsisized prior to issuance in accordance with FAR 5.201. The synopsis shall be brief, and the technical section describing the area of interest should not exceed 50 words.

(3) If a Headquarters-generated NRA may result in awards by a NASA field installation, the issuing office shall notify the installation procurement officer and provide a copy of the NRA.

(4) The selecting official is responsible for the preparation and distribution of the NRA.

(5) NRAs normally shall remain open for at least 90 days.

(c) Content. The NRA shall consist of the following sections and items. The entire package shall be provided in response to requests.

(1) Cover. The cover shall display:

(i) "OMB Approval Number 2700-0087" in the upper right corner.

(ii) Title.

(iii) "NASA Research Announcement Soliciting Research Proposals for the Period Ending

(iv) NRA number.

(v) Official address for the office issuing the NRA.

(2) Summary and Supplemental Information. (i) The Summary and Supplemental Information should not exceed two pages and shall include:

(A) Title and NRA number.

(B) The following statement concerning safety:

"Safety is the freedom from those conditions that can cause death, injury, occupational illness, damage to or loss of equipment or property, or damage to the environment. NASA's safety priority is to protect: (1) The public, (2) astronauts and pilots, (3) the NASA workforce (including employees working under NASA award instruments), and (4) high-value equipment and property.

(C) Introductory paragraphs describing the purpose of the NRA and the period for receipt of proposals.

(D) Address for submitting proposals.

(E) Number of copies required.

(F) Selecting official's title.

(G) Names, addresses, and telephone numbers for the technical and contracting points of contact.

(H) The following statement when the NRA is to be issued before funds are available:

Funds are not currently available for awards under this NRA. The Government's obligation to make award(s) is contingent upon the availability of appropriated funds from which payment can be made and the receipt of proposals that NASA determines are acceptable for award under this NRA.

(ii) The Summary and Supplemental Information may include estimates of the amount of funds that will be available and the number of anticipated awards. A breakdown of the estimates by research area may also be shown.

(3) Technical Description. The first page shall contain the NRA number and title at the top. A brief description not exceeding two pages is preferable, but it should be detailed enough to enable ready comprehension of the research areas of interest. Specifications containing detailed statements of work should be avoided. Any program management information included must be limited to matters that are essential for proposal preparation.

(4) Instructions for Responding to NASA Research Announcements. The NRA shall contain instructions as stated in 1852.235-72 (see 1835.070(c)).

(d) Receipt of proposals, evaluation, and selection. (1) Proposals shall be protected as provided in FAR 15.608, FAR 15.609, and 1815.609-70.

(2) Late proposals and modifications shall be treated in accordance with 1815.208.

(3) The selection decision shall be made following peer or scientific review of a proposal. Peer or scientific review shall involve evaluation by an in-house specialist, a specialist outside NASA, or both. Evaluation by specialists outside NASA shall be conducted subject to the conditions in 1815.207. After receipt of a proposal and before selection, scientific or engineering personnel shall communicate with an offeror only for the purpose of clarification (as defined in FAR 15.306), or to understand the meaning of some aspect of the proposal that is not clear, or to obtain confirmation or substantiation of a proposed approach, solution, or cost estimate.

(4) Competitive range determinations shall not be made, and final proposal revisions shall not be requested.

(5) Part of a proposal may be selected unless the offeror requests otherwise. In addition, changes to a selected proposal may be sought if (i) the ideas or other aspects of the proposal on which selection is based are contained in the proposal as originally submitted, and are not introduced by the changes; and (ii) the changes sought would not involve a material alteration to the requirements stated in the NRA. Changes that would affect a proposal's selection shall not be sought. When changes are desired, the selecting official may request revisions from the offeror or request the contracting officer to implement them during negotiations with the successful offeror(s). The changes shall not transfer information from one offeror's proposal to another offeror (see FAR 15.306(e)). When collaboration between offerors would improve proposed research programs, collaboration may be suggested to the offerors.

(6) The basis for selection of a proposal shall be documented in a selection statement applying the evaluation factors in the NRA. The selection statement represents the conclusions of the selecting official and must be self-contained. It shall not incorporate by reference the evaluations of the reviewers.

(7) The selecting official shall notify each offeror whose proposal was not selected for award and explain generally why the proposal was not selected. If requested, the selecting official shall arrange a debriefing under FAR 15.5, with the participation of a contracting officer.

(8) The selecting official shall forward to the contracting officer the following information:

(i) A copy of the NRA (This requirement may be waived in the case of a grant award at the discretion of the grant officer);

(ii) The results of the technical evaluation, including the total number of proposals received, the selection statement, and the listing of proposal(s) selected for funding (These requirements may be waived in the case of a grant award at the discretion of the grant officer if the purchase request specifi-

cally references the NRA number and states that the proposal forwarded for funding was selected under the NRA.);

(iii) A description of any changes desired in any offeror's statement of work, including the reasons for the changes and any effect on level of funding;

(iv) If a contract will be used to fund the proposal, a description of deliverables, including technical reports, and delivery dates, consistent with the requirements of the NRA;

(v) A procurement request;

(vi) Comments on the offeror's cost proposal (either the selecting official's comments, which may be based on the reviewer's comments, or copies of the reviewers' comments with any different conclusions of the selecting official); these comments shall address the need for and reasonableness of travel, computer time, materials, equipment, subcontracted items, publication costs, labor hours, labor mix, and other costs; and

(vii) A copy of the selected proposal as originally submitted, any revisions, and any correspondence from the successful offeror.

(9) The selecting official may provide to the contracting officer copies of the reviewers' evaluations. Reviewers' names and institutions may be omitted.

(10) The selecting official may provide each offeror whose proposal was selected for negotiation a notification stating:

(i) The proposal has been selected for negotiation;

(ii) The offeror's business office will be contacted by a contracting officer, who is the only official authorized to obligate the Government; and

(iii) Any costs incurred by the offeror in anticipation of an award are at the offeror's risk.

(e) Award. The contracting officer shall choose the appropriate award instrument. If a contract is selected, the contracting officer shall—

(1) Advise the offeror that the Government contemplates entering into negotiations; the type of contract contemplated; and the estimated award date, anticipated effort, and delivery schedule;

(2) Send the offeror a model contract, if necessary, including modifications contemplated in the offeror's statement of work, and request agreement or identification of any exceptions (the contract statement of work may summarize the proposed research, state that the research shall be conducted in accordance with certain technical sections of the proposal (which shall be identified by incorporating them into the contract by reference), and identify any changes to the proposed research);

(3) Request the offeror to complete and return certifications and representations and Standard Form 33, Solicitation, Offer, and Award, or other appropriate forms. If FAR 52.219-9, Small Business Subcontracting Plan, is required for the resultant contract, request the offeror to provide a subcontracting plan.

(4) Conduct negotiations in accordance with FAR subparts 15.3 and 15.4, as applicable;

(5) Award a contract; and

(6) Comply with FAR subparts 4.6 and 5.3 on contract reporting and synopses of contract awards.

(f) Cancellation of an NRA. when program changes, program funding, or any other reasons require cancellation of an NRA, the office issuing the NRA shall notify potential offerors by using the mailing list of the NRA.

[62 FR 4469, Jan. 30, 1997, as amended at 62 FR 14017, Mar. 25, 1997; 63 FR 9967, Feb. 27, 1998. Redesignated and amended at 64 FR 48561, Sept. 7, 1999; 65 FR 12485, Mar. 9, 2000; 65 FR 46628, July 31, 2000; 65 FR 82297, Dec. 28, 2000; 66 FR 53547, Oct. 23, 2001; 67 FR 30604, May 7, 2002]

1835.016-72 Foreign participation in NRA proposals.

Foreign proposals or U.S. proposals with foreign participation shall be treated in accordance with 1835.016-70. Additional guidelines applicable to foreign proposers are contained in the provision at 1852.235-72, Instructions for responding to NASA Research Announcements.

[64 FR 48561, Sept. 7, 1999]

1835.070 NASA contract clauses and solicitation provision.

(a) The contracting officer must insert the clause at 1852.235-70, Center for

AeroSpace Information—Final Scientific and Technical Reports, in all research and development contracts, interagency agreements, and in cost-reimbursement supply contracts involving research and development work.

(b) The contracting officer shall insert the clause at 1852.235-71, Key Personnel and Facilities, in contracts when source selection has been substantially predicated upon the possession by a given offer or of special capabilities, as represented by key personnel or facilities.

(c) The contracting officer shall ensure that the provision at 1852.235-72, Instructions for Responding to NASA Research Announcements, is inserted in all NRAs. The instructions may be supplemented, but only to the minimum extent necessary.

[62 FR 4469, Jan. 30, 1997, as amended at 65 FR 45307, July 21, 2000]

PART 1836—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

Subpart 1836.2—Special Aspects of Contracting for Construction

Sec.

1836.203 Government estimate of construction costs.

1836.209 Construction contracts with architect-engineer firms.

1836.213 Special procedures for sealed bidding in construction contracting.

1836.213-3 Invitations for bids.

1836.213-4 Notice of Award. (NASA supplements paragraph (e))

1836.213-370 Additive and deductive items.

Subpart 1836.5—Contract Clauses

1836.513 Accident prevention.

1836.570 NASA solicitation provisions and contract clause.

Subpart 1836.6—Architect-Engineer Services

1836.602 Selection of firms for architect-engineer contracts.

1836.602-1 Selection criteria.

1836.602-2 Evaluation boards.

1836.602-4 Selection authority.

1836.602-5 Short selection process for contracts not to exceed the simplified acquisition threshold.

1836.602-70 Selection of architect-engineers for master planning.